

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 97-474-C - ORDER NO. 98-359

MAY 19, 1998

JMP

IN RE: Application of New Century, Inc. for a)	ORDER
Certificate of Public Convenience and)	APPROVING
Necessity to Operate as a Reseller of)	CERTIFICATE
Interexchange Telecommunications Services)	
and for Alternative Regulation of its Business)	
Service Offerings.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of New Century Telecom, Inc. ("NCT" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1997) and the Regulations of the Public Service Commission of South Carolina. By its Application, NCT also requested alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

The Commission's Executive Director instructed NCT to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of NCT's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. NCT complied with this instruction and provided the Commission with

proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on April 30, 1998, at 10:30 a.m. in the Commission's Hearing Room at 111 Doctors Circle, Columbia, South Carolina. The Honorable Guy Butler, Chairman, presided. NCT was represented by Weston Adams, III, Esquire and Kristopher E. Twomey. Mr. Twomey is a member in good standing of the Massachusetts Bar and on the motion of Mr. Adams was admitted pro hac vice for the purposes of the hearing. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Robert Schneberger, Executive Vice President and Chief Operating Officer of NCT appeared and testified in support of the Application. The record reveals that NCT is a Virginia corporation which is registered to conduct business in South Carolina as a foreign corporation. According to Mr. Schneberger, NCT proposes to offer resold interexchange telecommunications services, including direct dialed 1+ service, in-bound 800 service, and travel card services, on a statewide basis. Mr. Schneberger explained the Company's request for authority and the record reveals the Company's services, operations, and marketing procedures.

Mr. Schneberger also discussed NCT's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Finally, Mr. Schneberger testified that NCT will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Schneberger also offered that approval of NCT's application would serve the public interest by providing South Carolina consumers with a viable alternative to other

long distance carriers by offering competitively priced long distance service with a variety of rate plans or service offerings.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. NCT is organized as a corporation under the laws of the State of Virginia and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. NCT operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. NCT has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NCT to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for NCT for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. NCT shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. NCT shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1997).

4. With respect to NCT's business service offerings including credit card services, operator services, and customer network offerings, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme,

tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to NCT also. Staff is instructed to monitor NCT using the same monitoring process and techniques as are used to monitor AT&T.

5. If it has not already done so by the date of issuance of this Order, NCT shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. NCT is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. NCT shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NCT changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, NCT shall comply with the terms of Order No. 93-462, Order Approving

Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. NCT shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. NCT shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

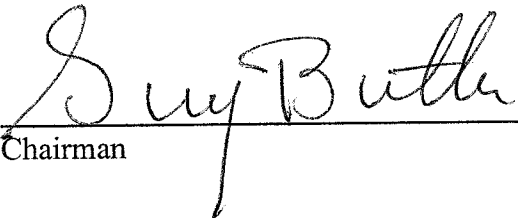
12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

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13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

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ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230